

CITY OF MUSKEGON

CITY COMMISSION MEETING

MARCH 22, 2005

CITY COMMISSION CHAMBERS @ 5:30 P.M.

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, Michigan at 5:30 p.m., Tuesday, March 22, 2005.

Mayor Warmington opened the meeting with a prayer from Pastor Sarah Johnson of the Word of Truth Outreach after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen Warmington, Vice Mayor Bill Larson, Commissioner Lawrence Spataro, Chris Carter, Kevin Davis, and Stephen Gawron, City Manager Bryon Mazade, City Attorney John Schrier, and Deputy City Clerk Linda Potter.

Absent: Commissioner Clara Shepherd (excused)

2005-28 HONORS AND AWARDS:

A. Larry DeCou. Proclamation was presented to Larry DeCou by Mayor Warmington.

2005-29 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve the minutes of the Community Relations Committee and the Commission Worksession that was held on Monday, March 7, 2005; and the Regular Commission Meeting that was held on Tuesday, March 8, 2005.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

B. Request to Fly the Norwegian Flag. CITY CLERK

SUMMARY OF REQUEST: The Sons of Norway request permission to fly the Norwegian Flag outside City Hall on Tuesday, May 17th to celebrate Norwegian Independence Day.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval.

C. FIRST READING: Zoning Ordinance Amendment to Article II (Definitions) of the Zoning Ordinance. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Article II (Definitions) to clarify the definition for "Setback, Front".

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to clarify the definition for "Setback, Front".

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the amendment at their 3/10/05 meeting. The vote was unanimous in favor of the amendment, with B. Turnquist and S. Warmington absent.

D. FIRST READING: Zoning Ordinance Amendment to Article II (Definitions) of the Zoning Ordinance. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Article II (Definitions) to add a definition for "Informational Sign".

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to add a definition for "Informational Sign".

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the amendment at their 3/10/05 meeting. The vote was unanimous in favor of the amendment, with B. Turnquist and S. Warmington absent.

E. FIRST READING: Zoning Ordinance Amendment to the Sign Ordinance for Campus Signage. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Section 2334(10.) of Article XXIII (General Provisions) to amend the sign ordinance language regarding campus signage.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to amend the sign ordinance language regarding campus signage.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the amendment at their 3/10/05 meeting. The vote was unanimous in favor of the amendment, with B. Turnquist and S. Warmington absent.

F. FIRST READING: Rezoning Request for Properties Located at 704, 714, 724, and 734 E. Apple Avenue. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to rezone properties located at 704, 714, 724, and 734 E. Apple Avenue, from R-1, Single Family Residential to B-2, Convenience & Comparison Business.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends approval of the request.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their 3/10/05 meeting. The vote was unanimous in favor of the amendment, with B. Turnquist and S. Warmington absent.

G. The Abonmarche Group Agreement. LEISURE SERVICES

SUMMARY OF REQUEST: To approve a professional service agreement with The Abonmarche Group to provide engineering services for the Phase III marina improvement project at Hartshorn Marina.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve.

H. Street Lights on Shoreline Drive between Spring and Eastern. ENGINEERING

SUMMARY OF REQUEST: Authorize staff to enter into an agreement with Consumer Energy to install a total of nineteen (19) street lights along the newly constructed section of Shoreline Drive between Ryerson Creek and Webster Avenue to the north east. Some of the proposed lights will be installed along the realigned Ottawa Street between Western & Shoreline Drive. This request does not encompass the remainder of the Shoreline Drive route between Ryerson Creek & First due to on-going negotiations regarding the soil conditions in that area. The proposed street lights will be similar in appearance to those installed on Harvey Street by the crossing mall in Fruitport Township.

FINANCIAL IMPACT: \$29,200.

BUDGET ACTION REQUIRED: None at this time since the cost is expected to be an eligible expense to the state's grant.

STAFF RECOMMENDATION: Authorize staff to sign the contract with Consumer Energy to install the street lights as described.

Motion by Commissioner Carter, second by Commissioner Spataro to approve the Consent Agenda as presented.

ROLL VOTE: Ayes: Warmington, Carter, Davis, Gawron, Larson, and Spataro

Nays: None

MOTION PASSES

2005-30 PUBLIC HEARINGS:

A. Create a Special Assessment District for Ireland Avenue, Franklin to Davis. ENGINEERING

SUMMARY OF REQUEST: To hold a public hearing on the proposed special assessment

for Ireland, Davis to Franklin, and to create the special assessment district and appoint two City Commissioners to the Board of Assessors if it is determined to proceed with the project.

FINANCIAL IMPACT: None at this time.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To create the special assessment district and assign two City Commissioners to the Board of Assessors by adopting the resolution.

The Public Hearing opened at 5:38 p.m. to hear and consider any comments from the public. Comments in opposition were heard from Richard Smith, 1151 Ireland.

Motion by Commissioner Gawron, second by Commissioner Carter to close the Public Hearing at 5:47 p.m.

ROLL VOTE: Ayes: Carter, Davis, Gawron, Larson, Spataro, and Warmington

Nays: None

MOTION PASSES

Motion by Commissioner Spataro, second by Commissioner Carter to table the special assessment of Ireland, Davis to Franklin to the April 12th meeting.

ROLL VOTE: Ayes: Davis, Gawron, Larson, Spataro, Warmington, and Carter

Nays: None

MOTION PASSES

B. Create a Special Assessment District for Franklin Street, Laketon to Ireland.
ENGINEERING

SUMMARY OF REQUEST: To hold a public hearing on the proposed special assessment for Franklin, Laketon to Ireland, and to create the special assessment district and appoint two City Commissioners to the Board of Assessors if it is determined to proceed with the project.

FINANCIAL IMPACT: None at this time.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To create the special assessment district and assign two City Commissioners to the Board of Assessors by adopting the resolution.

The Public Hearing opened at 5:48 p.m. to hear and consider any comments from the public. Comments in opposition were heard from: John Hulka, 1028 W. Larch; Robert O'Conner representing 1721 Franklin, 1735 Franklin, and 1045 W. Larch; and Mark Bouwkamp, 1027 W. Dale.

Motion by Commissioner Spataro, second by Commissioner Carter to close the Public Hearing at 6:06 p.m.

ROLL VOTE: Ayes: Gawron, Larson, Spataro, Warmington, Carter, and Davis

Nays: None

MOTION PASSES

Motion by Commissioner Spataro, second by Commissioner Gawron to table the special assessment of Franklin, Laketon to Ireland to the April 12th meeting.

ROLL VOTE: Ayes: Gawron, Larson, Spataro, Warmington, Carter, and Davis

Nays: None

MOTION PASSES

**C. Community Development Block Grant/HOME Final Allocation Decision.
COMMUNITY & NEIGHBORHOOD SERVICES**

SUMMARY OF REQUEST: For the City Commission to conduct a Public Hearing in reference to 2005-2006 CDBG/HOME allocations. After the Public Hearing is over, it is hoped that the Commission will make their final allocation decision concerning the 2005-2006 CDBG/HOME allocations for this coming fiscal year. The Commission has received the recommendation from the Citizen's District Council and the City Administration. The Commission made their preliminary recommendations during the March 8, 2005, City Commission Meeting. After receiving the Commissions final allocation decision, the CNS Office will amend the City's 2005-2006 Action Plan if needed and continue the comment period until April 17, 2005. At that time, the City will request the U.S. Housing and Urban Development Department for the release of the funds for the 2005-2006 fiscal year to begin June 1, 2005.

FINANCIAL IMPACT: The decision will determine the CDBG/HOME budget for 2005-2006.

BUDGET ACTION REQUIRED: The decision will establish the budget.

STAFF RECOMMENDATION: The Commission has already received the staff recommendation.

The Public Hearing opened at 6:08 p.m. to hear and consider any comments from the public. Mayor Warmington called a break in the Public Hearing from 6:20 p.m. to 6:30 p.m. Comments were heard from Lois Springs, 313 W. Webster, representing Red Cross; Diana Miller, 280 Ottawa, representing Muskegon Habitat for Humanity; Dave Eling representing Veterans Affairs; Wilma Cullen representing Healthcare Agency; Joseph Bush, 1506 Lexington representing Neighborhood Invest. Corp., 1115 Third Street, and Jamie Langlois, 280 Ottawa, representing Habitat for Humanity.

Motion by Commissioner Gawron, second by Vice Mayor Larson to close the Public Hearing at 7:14 p.m.

ROLL VOTE: Ayes: Spataro, Warmington, Carter, Davis, Gawron, and Larson

Nays: None

MOTION PASSES

Motion by Vice Mayor Larson, second by Commissioner Davis to approve the Community Development Block Grant/HOME allocations as recommended by the Citizen District Council.

ROLL VOTE: Ayes: Spataro, Warmington, Carter, Davis, Gawron, and Larson

Nays: None

MOTION PASSES

D. 2005 - 2010 Consolidated Plan and Accept the Consolidated Plan and Direct Staff to Continue the Public Comment Period. COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: For the City Commission to conduct a Public Hearing in reference to 2005-2010 Consolidated Plan in order to receive comments from the public concerning the City's five-year plan produced by the CNS Office. After the Commission has received comments from the public, the CNS Office asked that the Commission approve the Consolidated Plan and direct the CNS Office to continue the public comment period which began March 17, 2005, and ends April 17, 2005. After receiving the Commissions approval on or about April 17, 2005, the CNS Office will deliver the Consolidated Plan with all other required documentation to the U.S. Department of Housing and Urban Development for their approval.

FINANCIAL IMPACT: The City is required to produce a Consolidated Plan to continue receiving CDBG and Home funding.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the Consolidated Plan.

The Public Hearing opened at 7:17 p.m. to hear and consider any comments from the public. Comments were heard from Jason Bolton, 1182 W. Dale.

Motion by Commissioner Spataro, second by Commissioner Carter to close the Public Hearing at 7:23 p.m., accept the Consolidated Plan and direct staff to continue the public comment period.

ROLL VOTE: Ayes: Warmington, Carter, Davis, Gawron, Larson, and Spataro

Nays: None

MOTION PASSES

2005-31 NEW BUSINESS:

A. Environmental Program Mowing and Trash Clean-up Contract. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: The contract for mowing of lots and trash clean up of public and private properties previously held by Freelance Enterprises Inc. will expire on March 28, 2005. A request for bids was advertised and two companies placed bids. Freelance Enterprises is the low bidder for a two-year agreement.

FINANCIAL IMPACT: the bids came in lower than the amounts paid under the previous contract, this may lower the cities costs.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the contract and to authorize the Mayor and

City Clerk to sign a two-year agreement with Freelance Enterprises, for the mowing of lots and trash removal on properties located within the City.

Motion by Commissioner Carter, second by Commissioner Gawron to approve the environmental program mowing and trash clean-up contract with Freelance Enterprises.

ROLL VOTE: Ayes: Carter, Davis, Gawron, Larson, Spataro, and Warmington

Nays: None

MOTION PASSES

B. Contract Extension Agreement – One-Year Street Sweeping Contract for 2005. PUBLIC WORKS

SUMMARY OF REQUEST: To enter into a one-year contractual agreement with TRI-US SERVICES, INC., to provide street sweeping services for 2005.

FINANCIAL IMPACT: \$137,866.40 cost for one-year contract. Funds to cover all expenses are budgeted. Trunkline expenses are reimbursed by State funding.

BUDGET ACTION REQUIRED: None, monies appropriated in Highway and State trunkline budgets.

STAFF RECOMMENDATION: Approve request to contract out service for one-year extension as specified in previous contract.

Motion by Commissioner Carter, second by Commissioner Gawron to grant the contract extension for one year.

ROLL VOTE: Ayes: Davis, Gawron, Larson, Spataro, Warmington, and Carter

Nays: None

MOTION PASSES

C. Bathroom Facilities Agreement with Fisherman's Landing, Inc. CITY MANAGER

SUMMARY OF REQUEST: To approve a development and reimbursement agreement between the City and Fisherman's Landing, Inc. The agreement will enable the construction of a new bathroom facility at Fisherman's Landing and provides for a reimbursement of the costs for the same by Fisherman's Landing, Inc.

FINANCIAL IMPACT: \$146,926.24.

BUDGET ACTION REQUIRED: The 2005 budget will need to be readjusted to account for this new expenditure.

STAFF RECOMMENDATION: To approve the agreement.

Motion by Commissioner Gawron, second by Commissioner Spataro to approve the agreement between the City and Fisherman's Landing, Inc.

ROLL VOTE: Ayes: Gawron, Larson, Spataro, Warmington, Carter, and Davis

Nays: None

MOTION PASSES

D. Consideration of Bids for Clay Avenue, Terrace to Spring. ENGINEERING

SUMMARY OF REQUEST: Award the paving, using asphalt, and underground utility construction contract (H-1592, W-666 & S-601) for Clay Avenue between Terrace and Spring to Wadel Stabilization out of Hart, MI. Wadel was the lowest, responsible bidder with a bid price of \$364,887.60.

FINANCIAL IMPACT: The construction cost \$364,887.60 plus engineering cost which is estimated at an additional 15%.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Award the contract to Wadel Stabilization.

Motion by Vice Mayor Larson, second by Commissioner Spataro to award the contract for Clay Avenue, between Terrace and Spring to Wadel Stabilization.

ROLL VOTE: Ayes: Larson, Spataro, Warmington, Carter, Davis, and Gawron

Nays: None

MOTION PASSES

E. 2005 Fire Act Grant. PUBLIC SAFETY

SUMMARY OF REQUEST: The Director of Public Safety requests the Commission's authorization to apply for a 2005 Fire Act Grant (Federal). The amount that will be requested is \$55,000. The funds will be used to purchase turnout gear, helmets and boots. We would also purchase cold water rescue suits. We have previously applied for, and been awarded, three grants under this program. The City is responsible for a 10% match (\$5,500).

FINANCIAL IMPACT: The funds for the match would come from the Fire Department equipment fund.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of this request.

Motion by Commissioner Spataro, second by Commissioner Gawron to approve the application for the 2005 Fire Act Grant.

ROLL VOTE: Ayes: Spataro, Warmington, Carter, Davis, Gawron, and Larson

Nays: None

MOTION PASSES

F. Concurrence with the Housing Board of Appeals Notice and Order to Demolish the Following. PUBLIC SAFETY

SUMMARY OF REQUEST: This is to request that the City Commission concur with the findings of the Housing Board of Appeals that the structures listed above are unsafe, substandard, a public nuisance and that they be demolished within thirty (30) days. It is further requested that administration be directed to obtain bids for the demolition

of the structures and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

1. 1907 Hoyt

LOCATION AND OWNERSHIP: This structure is located on Hoyt between Holbrook and Keating and is owned by Scott Smith.

STAFF CORRESPONDENCE: This case began 6/13/03 because of the house being vacant, open and large amount of trash and debris left. A police report dated 5/20/03 was issued answering complaint from neighbor because home was left open and in a state of disrepair inside. A dangerous building inspection was conducted on 6/13/03 and an interior inspection conducted 7/9/03 the notice and order to repair was issued on 8/22/03. On 10/2/03 the HBA tabled the case to allow owner time to obtain permits and complete required repairs. The HBA declared the structure substandard and dangerous on 12/2/04.

OWNER CONTACT: The owner was present for the HBA meeting in October of 2003 stating he planned on doing repairs but had just buried his son. There have been no permits pulled or owner contact since that time. Brian Sokol representing Huntington Bank requested copies of inspection reports in December of 2004.

FINANCIAL IMPACT: General Funds

BUDGET ACTION REQUIRED: None

STATE EQUALIZED VALUE: \$33,800

ESTIMATED COST TO REPAIR: \$30,000

STAFF RECOMMENDATION: To concur with the Housing Board of Appeals decision to demolish.

2. 1142 Washington (Area 12)

LOCATION AND OWNERSHIP: This structure is located on Washington between Barclay Street and Davis Street and is owned by Bank One Assoc., 9350 Waxie Way, San Diego, CA 92123.

STAFF CORRESPONDENCE: A dangerous building inspection was conducted on 5/12/04 and the notice and order to repair was issued on 5/12/04. On 8/5/04 the HBA declared the structure substandard and dangerous.

OWNER CONTACT: No one was present to represent this case for the HBA meeting. The only contact from the owner was after the first notice was issued. She called to state she is being foreclosed on. She has moved out and left no forwarding address with the Inspection Department.

FINANCIAL IMPACT: General Funds.

BUDGET ACTION REQUIRED: None.

STATE EQUALIZED VALUE: \$30,900.

ESTIMATED COST TO REPAIR: \$25,000 Exterior Only.

STAFF RECOMMENDATION: To concur with the Housing Board of Appeals decision to demolish.

3. 1694 Pine

LOCATION AND OWNERSHIP: This structure is located on Pine between Dale and Larch and is owned by Joel Ramos.

STAFF CORRESPONDENCE: This case began as a rental complaint because of a collapsed ceiling. A dangerous building inspection was conducted 6/30/04. Notice and Order was sent 7/23/04. The case came before the HBA 9/2/04 and was declared dangerous, substandard and a public nuisance.

OWNER CONTACT: The owner wrote a letter to the Inspection Department dated 9/1/04 stating that he had just purchased the home and due to financial strain was not able to repair it. He asked for six months to make necessary improvements. An electrical permit was pulled in 2/3/03 but no inspection was scheduled. No other permits have been pulled or inspections scheduled and no further contact with owner since that time.

FINANCIAL IMPACT: CDBG Funds

BUDGET ACTION REQUIRED: None.

STATE EQUALIZED VALUE: \$16,500.

ESTIMATED COST TO REPAIR: \$30,000

STAFF RECOMMENDATION: To concur with the Housing Board of Appeals decision to demolish.

4. 1756 Ray – Garage

LOCATION AND OWNERSHIP: this structure is located on Ray between E. Laketon Avenue and E. Larch Avenue and is owned by Samuel/Debra McClure.

STAFF CORRESPONDENCE: A dangerous building inspection was conducted on 7/22/04 and the notice and order to repair was issued on 7/23/04. On 9/2/04 the HBA declared the structure substandard and dangerous.

OWNER CONTACT: There has been no owner contact, no permits issued and no inspections scheduled.

FINANCIAL IMPACT: CDBG Funds

BUDGET ACTION REQUIRED: None.

STATE EQUALIZED VALUE: \$15,900 (Entire Building).

ESTIMATED COST TO REPAIR: \$2,500 (Exterior Only – Garage)

STAFF RECOMMENDATION: To concur with the Housing Board of Appeals decision to demolish.

Motion by Commissioner Spataro, second by Commissioner Gawron to concur with the Housing Board of Appeals decision to demolish 1907 Hoyt, 1142 Washington, 1694 Pine, and 1756 Ray – garage.

ROLL VOTE: Ayes: Spataro, Warmington, Carter, Davis, Gawron, and Larson

Nays: None

MOTION PASSES

5. 291 Washington (Area 10b)

LOCATION AND OWNERSHIP: This structure is located on Washington between Sixth Street and Seventh Street and is owned by Bank One Assoc., 9350 Waxie Way, San Diego, CA 92123.

STAFF CORRESPONDENCE: a dangerous building inspection was conducted on 5/6/04 and an interior inspection on 8/2/04 the notice and order to repair was issued on 5/7/04. On 8/5/04 the HBA declared the structure substandard and dangerous.

OWNER CONTACT: Mr. Holden was present to represent this case. He stated he lives at 291 Washington and can start repairs in 30 days. He was given a copy of the interior inspection that was conducted earlier in the week at the HBA meeting. There have been no permits issued or inspections scheduled and no owner contact since that time.

FINANCIAL IMPACT: CDBG.

BUDGET ACTION REQUIRED: None.

STATE EQUALIZED VALUE: \$13,300.

ESTIMATED COST TO REPAIR: \$30,000.

STAFF RECOMMENDATION: To concur with the Housing Board of Appeals decision to demolish.

Motion by Commissioner Spataro, second by Commissioner Gawron to refer 291 Washington back to staff.

ROLL VOTE: Ayes: Warmington, Carter, Davis, Gawron, Larson, and Spataro

Nays: None

MOTION PASSES

ADJOURNMENT: The City Commission Meeting adjourned at 7:38 p.m.

Respectfully submitted,

Gail A. Kunding, MMC
City Clerk